

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S3/14/19 H3/28/19

A Bill

SENATE BILL 441

By: Senators Bledsoe, J. Cooper, J. English, Flippo, Irvin, Rapert, G. Stubblefield

By: Representatives Lundstrum, Bentley

For An Act To Be Entitled

AN ACT TO ADD RESTRICTIONS REGARDING ADVERTISING OF
MEDICAL MARIJUANA AND USE OF CERTAIN SYMBOLS; AND FOR
OTHER PURPOSES.

Subtitle

TO ADD RESTRICTIONS REGARDING ADVERTISING
OF MEDICAL MARIJUANA AND USE OF CERTAIN
SYMBOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas Constitution, Amendment 98, also known as the "Arkansas Medical Marijuana Amendment of 2019", creates a medical marijuana program and authorizes the use of medical marijuana for certain medical conditions;

(2) As with other medications, proper care and safety precautions are necessary to protect children and adults;

(3) The Arkansas Code does not specify the regulation of the advertising or use of certain symbols relating to medical marijuana; and

(4) It is necessary to protect the public health, safety, and welfare of the citizens of Arkansas to specify the regulation of the advertising or use of certain symbols relating to medical marijuana.

(b) It is the intent of this act to prohibit certain advertising and use of certain symbols relating to medical marijuana.



SECTION 2. Arkansas Code Title 20, Chapter 56, Subchapter 3, is amended to add an additional section to read as follows:

20-56-305. Prohibitions on advertising and use of certain symbols.

(a)(1) A cultivation facility shall not advertise through any public medium or means designed to market products to the public.

(2) A cultivation facility may market products directly to a dispensary by any means directed solely to the dispensary and not available to the public.

(b)(1) Advertising for medical marijuana by a dispensary shall not:

(A) Contain a statement that is deceptive, false, or misleading;

(B) Contain any content that can reasonably be considered to target children, including without limitation:

(i) A cartoon character;

(ii) A toy; or

(iii) Any other similar item or image typically marketed to children;

(C) Encourage the transportation of medical marijuana across state lines;

(D) Display consumption of marijuana;

(E) Contain material that encourages or promotes marijuana for use as an intoxicant; or

(F) Contain material that encourages excessive or rapid use or consumption of medical marijuana.

(2) Advertising and marketing for medical marijuana shall include at least one (1) of the following statements:

(A) "Marijuana is for use by qualified patients only. Keep out of reach of children.";

(B) "Marijuana use during pregnancy or breastfeeding poses potential harms to an unborn child or child.";

(C) "Marijuana is not approved by the United States Food and Drug Administration to treat, cure, or prevent any disease."; or

(D) "Do not operate a vehicle or machinery under the influence of marijuana."

(3) A dispensary shall not make any deceptive, false, or

misleading assertion or statement on any informational material, any sign, or any document provided to a consumer.

(4) A dispensary shall not place or maintain, or cause to be placed or maintained, any advertisement or marketing material for medical marijuana in the following locations:

(A) Within one thousand feet (1,000') of the perimeter of a public or private school or daycare center;

(B) On or in a public transit vehicle or public transit shelter; or

(C) On or in a publicly owned or operated property.

(5)(A) A dispensary shall not utilize television, radio, print media, or the internet to advertise and market medical marijuana, unless the dispensary has reliable evidence that no more than thirty percent (30%) of the audience for the program, publication, or website in or on which the advertisement is to air or appear is reasonably expected to be under eighteen (18) years of age.

(B) Upon request by the Alcoholic Beverage Control Division, a dispensary shall provide the evidence relied upon to make the determination that no more than thirty percent (30%) of the audience for the program, publication, or website in or on which the advertisement is to air or appear is reasonably expected to be under eighteen (18) years of age.

(6) A cultivation facility or dispensary shall not offer any coupons, rebates, or promotions for medical marijuana purchases, unless offered as part of a compassionate care plan presented to the Medical Marijuana Commission as part of the application for licensure.

(c)(1) A cultivation facility or dispensary shall have no more than three (3) signs visible to the general public from the public right-of-way that identify the cultivation facility or dispensary by the business name of the cultivation facility or dispensary.

(2) A sign shall not exceed thirty-six square feet (36 sq. ft.) in length or width.

(3) A sign shall be placed inside the window of the cultivation facility or dispensary or attached to the outside of the building of the cultivation facility or dispensary.

(4) A sign shall not display any content or symbol that:

(A) Can reasonably be considered to target children,

including without limitation:

(i) A cartoon character;

(ii) A toy; or

(iii) A similar image or item typically marketed to children; or

(B) Is commonly associated with the practice of medicine or the practice of pharmacy, including without limitation:

(i) A cross of any color;

(ii) A caduceus; or

(iii) Any other symbol that is commonly associated with the practice of medicine, the practice of pharmacy, or health care, in general.

/s/Bledsoe